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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,159	01/04/2002	Syoichiro Yoshiura	1035-362	1757
23117 7590 03/19/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
MAGUIRE, LINDSAY M				
ART UNIT		PAPER NUMBER		
3692				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/035,159

**Applicant(s)**

YOSHIURA ET AL.

**Examiner**

LINDSAY M. MAGUIRE

**Art Unit**

3692

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19, 23-31, 33, 35, 37-40 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 23-31, 33, 35, 37-40 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This Final Office action is in response to the application filed on January 4, 2002, the amendments filed on April 17, 2007, the Request for Continued Examination filed on September 20, 2007, and amendments filed on January, 14, 2008.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-10, 12 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spear et al (hereinafter Spear; US 6,486,439 B1) in view of Blankenship et al (hereinafter Blankenship US 6,624,388 B1).

**Re Claim 1:** Spear discloses an information communication apparatus, provided in a user device, which is set to be capable of performing communication with outside via a network comprising:

- An information generating section for selecting an article suitable for maintenance of the user device, so as to generate purchase information which indicates that purchase of the article is required, in accordance with status of the user device (Column 2, line 66 – Column 3 line 16)

- A communication section for opening the purchase information to plural dealers, and for receiving sales information, which indicate sales conditions of said article, from respective dealers, so as to inform the sales information to a user (Column 3, line 57 – Column 4 line 6)

Spear does not explicitly disclose that: (a) said information generating section presumes a time when life of the article required for maintenance of the user device will end, and generates the purchase information at a time calculated by subtracting from the presumed time a purchase time required between transmission of the purchase information by the communication section and reception of a delivery of the article; and (b) wherein selection of the article to be purchased, generation of purchase information, and transmission of purchase information are automatically performed by said apparatus without instruction by the user. Blankenship discloses these steps ((a) Column 3, lines 47-63); (b) FIG 14, Column 15, lines 48-67). It would have been obvious to a person of ordinary skill in the art at the time of invention to include the teachings of Blankenship to the disclosure of Spear to further reduce any possibility of human error in the purchase process for replacement parts.

**Re Claim 4:** Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that purchase of an expendable is required in the user device (Column 3, line 62 - Column 4 line 4).

**Re Claim 5:** Spear further discloses wherein said information generating section is set to generate the purchase information, which indicates that the purchase of the

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expendable, left in the user device, becomes less than a predetermined value (Column 7, line 26-63)

**Re Claim 6:** Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that purchase of a replacement part is required in the user device (Column 3, line 57 – Column 4 line 6).

**Re Claim 7:** Spear further discloses wherein said information generating section is set to generate the purchase information, which indicates that the purchase of the replacement part is required in the user device, when deterioration of the replacement part of the user device becomes more than a predetermined value (Column 3, lines 32-62).

**Re Claim 8:** Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that a regular examination is required with respect to the user device (Column 3, lines 54-57 'routine maintenance').

**Re Claim 9:** Spear further discloses wherein said information generating section is set so that the purchase information includes specifying information to specify the user device (Column 3, lines 62-65; 'information relating to the welding system, the selected part and associated part suppliers').

**Re Claim 10:** Spear further discloses wherein said information generating section is set to stop generating the purchase information in accordance with an instruction of the user (Column 3, line 54-Column 4 line 6).

**Re Claim 12:** Spear further discloses wherein said communication section informs the sales information by displaying sales information (Column 10 line 15-Column 11 line 12)

**Re Claim 37:** Spear discloses an information communication apparatus, provided in a user device, which is set to be capable of performing communication with outside comprising:

- An information generating section for generating device information concerning the user device (Column 2, line 66 – Column 3 line 16)
- A communication section for transmitting the device information to plural sending ends and for receiving reply information with respect to the device information (Column 3, line 57 – Column 4 line 6)
- A display section for displaying the reply information (Column 10 line 15-Column 11 line 12)

Spear does not explicitly disclose that: (a) said information generating section presumes a time when life of the article required for maintenance of the user device will end, and generates the purchase information at a time calculated by subtracting from the presumed time a purchase time required between transmission of the purchase information by the communication section and reception of a delivery of the article; and (b) wherein selection of the article to be purchased, generation of purchase information, and transmission of purchase information are automatically performed by said apparatus without instruction by the user. Blankenship discloses these steps ((a) Column 3, lines 47-63; (b) FIG 14, Column 15, lines 48-67). It would have been obvious

to a person of ordinary skill in the art at the time of invention to include the teachings of Blankenship to the disclosure of Spear to further reduce any possibility of human error in the purchase process for replacement parts.

Claims 2-3, 11, 13-19, 23-31, 33, 35, 38-40 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spear in view of Blankenship and further in view of Heimermann et al (hereinafter Heimermann US 7,110,976 B2).

**Re Claim 2:** Spear in view of Blankenship discloses the claimed apparatus supra and Spear further discloses wherein said communication section is set to open the purchase information to the plural dealers and wherein said communication section is set to received sales information of the respective dealer (Column 8, line 57 – Column 9 line 33). Spear does not explicitly disclose wherein the purchase information is sent to an auction server, which collects the sales information from the respective dealers and returns this information to the system. Heimermann discloses a centralized requisition driven order formulating, e-procurement method using reverse auction that teaches a web-site based reverse auction among competing authorized suppliers, employed for purchase of goods and services (Abstract) in a server based system (Column 19, lines 25-39). It would have been obvious to a person of ordinary skill to include the teachings of Heimermann to the disclosure of Spear to force competition among a large number of authorized suppliers. Because Spear indicates that a number of possible suppliers are utilized to fulfill different parts (Column 9 lines 1-5, Column 11, lines 30-31), and Heimermann teaches that that reverse auctions were known to provide an efficient means to find a low cost dealer amongst many, it would have been

obvious to a person of ordinary skill to include the teachings of Heimermann to the disclosure of Spear to force competition among a large number of authorized suppliers.

**Re Claim 3:** Spear in view of Blankenship in view of Heimermann discloses the claimed apparatus supra and Heimermann further discloses wherein said auction server is set to determine a successful bidder in accordance with the sales condition transmitted from the respective dealers (Column 20, lines 14-30) and said auction server is set to inform the communication section of the successful bidder that has been determined (Column 20, lines 36-52).

**Re Claim 11:** Spear in view of Blankenship discloses the claimed apparatus supra but does not explicitly disclose wherein said information generating section is set so that the purchase information includes information that causes a dealer to be determined as a successful bidder. Heimermann teaches this step (Column 20 lines 14-30). It would have been obvious to a person of ordinary skill in the art to include the teachings of Heimermann to the disclosure of Spear so that the dealer knows the exact specifications of the goods they are bidding, which assures that the ultimate user gets what they need, and the dealer is not mistakenly bidding on something it cannot provide.

**Re Claims 13-19:** Further system claims would have been obvious from the previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.



**Re Claims 23-30:** Further method claims would have been obvious from previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.

**Re Claim 31:** The claim is substantially the same as claim 1, with the added step that a computer executes the processes. For the most part then, the claims are rejected under the aforementioned art and rationale. Spear further discloses this step (Column 10, lines 15-45).

**Re Claims 33:** Further program claims would have been obvious from the previously rejected apparatus claims 1-12 and are therefore rejected using the same art and rationale.

**Re Claims 35 and 38:** Further computer readable medium claims would have been obvious from the previously rejected system claims 1-12 and are therefore rejected using the same art and rationale.

**Re Claims 39-40:** These claims are substantial duplicates of claims 24 and 25 respectively and are therefore rejected using the same art and rationale.

**Re Claim 43:** This claim is a substantial similar to claim 1, but broader in scope and is therefore rejected using the same art and rationale.

### ***Response to Arguments***

Applicant's arguments filed January 14, 2008 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments that, Blankenship fails to take into account the time required for purchase when ordering the supplies, are acknowledged, however examiner is of another opinion. Specifically, Blankenship discloses, "Welding supplies associated with the welders may be monitored either automatically and/or manually from remote systems to facilitate sales and order processing/forecasting in relation to perishable/replacement items relating to the welder[.]" (column 3, lines 49-53). In Blankenship stating that the ordering is done in relationship to order processing, it would be obvious to one of ordinary skill in the art that "order processing" includes the time it would take to purchase supplies. Therefore, Blankenship is considered to fully meet the limitation of the claim.

Applicant's arguments that Blankenship does not teach or suggest that any threshold value is a presumed life of a maintenance article, are acknowledged, however examiner is of another opinion. Specifically, Blankenship discloses, " Welding supplies associated with the welders may be monitored either automatically and/or manually from remote systems to facilitate sales and order processing/forecasting in relation to

perishable/replacement items relating to the welder[.]” (column 3, lines 49-53). In stating that the monitoring and ordering process is done in relation to perishable/replacement items, it would be obvious to one of ordinary skill in the art that this pertains to the presumed life of maintenance of an article, since maintenance is done at regular intervals and includes the replacement of parts. Therefore, Blankenship is considered to fully meet this limitation.

### ***Conclusion***

Examiner has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSAY M. MAGUIRE whose telephone number is (571)272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-670202. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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